

UNITED STATES DISTRICT COURT

DISTRICT OF CONNECTICUT

LUCILLE RUBIN,	:
Plaintiff,	:
	:
-vs-	: Civ. No. 3:00cv1657 (PCD)
	:
T. DONALD HIRSCHFELD,	:
HIRSCHFELD MANAGEMENT, INC.,	:
and GINETTE S. OWINGS,	:
Defendants.	:

RULING ON MOTION FOR PROTECTIVE ORDER

Defendants move pursuant to FED. R. CIV. P. 26(c) for a protective order denying plaintiff copies of defendant T. Donald Hirschfeld's state and federal tax returns and will. The motion for a protective order is denied.

I. BACKGROUND

On October 16, 2001, plaintiff moved to compel production of a number of documents, which included, inter alia, state and federal tax returns and trust and estate documents. On October 22, 2001, the motion was granted. On November 2, 2001, defendants moved for reconsideration of the order as it pertained to the production of state and federal tax returns. On November 8, 2001, the order compelling production was modified to provide that, after in camera review, "[r]edacted copies of the tax returns, limited to portions relevant to the issue of domicile, will . . . be provided to plaintiff." Defendants now seek a protective order denying plaintiff copies of defendant Hirschfeld's state and federal tax returns and will but permitting plaintiff's attorney to review the documents.

II. STANDARD

A protective order may issue on good cause shown by the moving party. FED. R. CIV. P. 26(c); *Dove v. Atlantic Capital Corp.*, 963 F.2d 15, 19 (2d Cir. 1992). Rule 26(c), however, “is not a blanket authorization for the court to prohibit disclosure of information whenever it deems it advisable to do so, but is rather a grant of power to impose conditions on discovery in order to prevent injury, harassment, or abuse of the court’s processes.” *Bridge C.A.T. Scan Assocs. v. Technicare Corp.*, 710 F.2d 940, 944-45 (2d Cir. 1983).

III. DISCUSSION

Defendants assert that “there is no legitimate reason why plaintiff must have physical possession of a copy of defendant Hirschfeld’s tax returns or will,” thus a protective order is necessary. Defendants further assert that such order is justified by “Hirschfeld’s willingness to allow plaintiff’s counsel to show or describe the contents to plaintiff” and the possibility that plaintiff will disclose the contents of the documents if in possession of a copy. Plaintiff contends that the order sought “significantly limits the ability of Plaintiff’s counsel and other advisors to perform their functions.”

A protective order issues on good cause shown by the moving party. A moving party may not establish good cause through conclusory statements. *Anderson v. Cryovac, Inc.*, 805 F.2d 1, 8 (1st Cir. 1986). Good cause is established by demonstrating “a clearly defined and serious injury” resulting from disclosure. *Glenmede Trust Co. v. Thompson*, 56 F.3d 476, 483 (3d Cir. 1995). Defendants’ argument improperly shifts the burden to plaintiff to demonstrate why she needs a copy of the documents rather than demonstrating good cause why plaintiff should not.

A similar order to that sought by defendants was issued in *Alexander v. F.B.I.*, 186 F.R.D. 54,

58 (D.D.C. 1998). The protective order restricted disclosure of information in medical and psychological records to attorneys. *Id.* at 57. Such orders were deemed appropriate, “particularly where there is some risk that a party might use the information or disseminate it to others who might employ [the information] to gain a competitive advantage over the producing party.” *Id.* at 58. The movant alleged that “any benefit that could be derived from disclosure of th[e] information is greatly outweighed by the substantial risk of improper use of these records” and its issuance was predicated on a “past course of conduct, as well as [an] apparent, continuing willingness to use confidential information against adversaries.” *Id.* at 57 (internal quotation marks omitted).

Unlike the facts in *Alexander*, there is no evidence supporting a likelihood of misuse by plaintiff of the information contained within the tax returns and will. “[B]road allegations of harm unsubstantiated by specific examples will not suffice to justify the issuance . . . of a protective order.” *Id.* at 57-58. Simply alleging that a protective order is a necessary safeguard, without providing a basis for believing the disclosure of confidential information is likely rather than an abstract possibility, does not constitute good cause for issuance of an order under FED. R. CIV. P. 26(c) .

IV. CONCLUSION

Plaintiff's motion for a protective order (Doc. 61), as cast, is **denied**. However, the disclosure thus required will be limited such that the information items provided shall not be communicated but to and between counsel and plaintiff and not otherwise than for the purposes of necessary prosecution of this lawsuit.

SO ORDERED.

Dated at New Haven, Connecticut, December ___, 2001.

Peter C. Dorsey
United States District Judge